

COA No. 35050-9-III  
Whitman County Superior Court No. 16-8-00033-9

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION THREE

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STATE OF WASHINGTON,  
Respondent  
v.

MICHAEL DAGGETT  
Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON FOR WHITMAN COUNTY

The Honorable Gary Libey, Judge

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RESPONDENT'S BRIEF

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Merritt Decker  
Senior Deputy Prosecuting Attorney  
Whitman County  
Attorney for Appellee  
400 North Main Street  
Colfax, WA 99111  
(509) 397-6250

## **I. ASSIGNMENT OF ERROR**

The trial court erred under JuCR 7.11(d) when it failed to enter written findings and conclusions after the Juvenile filed his notice of appeal.

## **II. ARGUMENT**

The Respondent concedes that pursuant to JuCR 7.11(d), after a Juvenile timely files a notice of appeal, the Court shall enter written findings and conclusions. The Respondent also concedes that under JuCR 7.11(d), it is the State's obligation to submit findings and conclusion within 21 days after receiving notice of the appeal.

In this matter, the State received the notice of appeal on February 13, 2017. The State failed to comply with JuCR 7.11(d) by not submitting findings and conclusions within 21 days after receiving the notice of appeal. However, findings and conclusions were entered in this matter on October 3<sup>rd</sup>, 2017, approximately 8 months after receiving notice.

Washington case law provides that a dismissal of a matter for such a violation is only appropriate upon a showing of prejudice to the juvenile. *See State v. Royal*, 122 Wn.2d 413, 423, 858 P.2d 259 (1993), *State v. Brown*, 68 Wn.App. 480, 486, 843 P.2d 1098 (Div 1, 1993).

It is the Respondent's position that this late filing has not caused any prejudice to the Juvenile. Further, based on the Appellant's brief, it

does not appear that any prejudice is being claimed. Therefore, the Court should find that a dismissal is not appropriate in this matter.

### **III. CONCLUSION**

The Respondent requests that this Court not dismiss the Appellant's conviction because the state failure to comply with JuCR 7.11(d) has caused no prejudice. The Respondent defers to the Court's discretion as how the appeal should proceed.

Respectfully submitted this 4<sup>th</sup> day of October, 2017.



Merritt Decker, WSBA 46248  
Senior Deputy Prosecuting Attorney

### **CERTIFICATE OF SERVICE**

I hereby certify that this day I caused a copy of this document to be sent by certified mail to the Appellant's attorney, David B. Koch.

Dated: October, 4, 2017



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Merritt Decker, WSBA# 46248  
Senior Deputy Prosecuting Attorney

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7 IN THE COURT OF APPEALS, DIVISION III  
8 IN AND FOR THE STATE OF WASHINGTON

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10 STATE OF WASHINGTON,  
11 Plaintiff,

Court of Appeals No. 35050-9-III  
No. 16-8-00033-9

12 v.

AFFIDAVIT OF DELIVERY

13  
14 MICHAEL ROBERT DAGGETT,  
15 Defendant,

16 STATE OF WASHINGTON )  
17 COUNTY OF WHITMAN )

18 AMANDA PELISSIER, being first duly sworn, deposes and says as follows: That on the 4TH  
19 DAY OF OCTOBER, 2017, I caused to be delivered a full, true and correct copy(ies) of the  
20 original **RESPONDENT'S BRIEF** on file herein to the following named person(s) using the  
21 following indicated method:  
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23  
24 -MAILED TO DAVID BRUCE KOCH, NIELSEN BROMAN & KOCH PLLC, 1908 E  
25 MADISON ST, SEATTLE, WA 98122-2842

26 -EMAILED TO DAVID BRUCE KOCH AT KOCHD@NWATTORNEY.NET

27  
28 DATED this 4TH DAY OF OCTOBER, 2017.

Amanda Pelissier  
AMANDA PELISSIER

29  
30 SIGNED before me on the 4TH DAY OF OCTOBER, 2017.



Don Edwals  
NOTARY PUBLIC in and for the State of  
Washington, residing at: Colfax  
My Appointment Expires: 10/1/18

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AFFIDAVIT OF DELIVERY

Denis P. Tracy  
Whitman County Prosecuting Attorney  
P.O. Box 30, Colfax, WA 99111-0030  
(509) 397-6250, Fax (509) 397-5659

# WHITMAN COUNTY PROSECUTOR'S OFFICE

October 04, 2017 - 9:25 AM

## Transmittal Information

**Filed with Court:** Court of Appeals Division III  
**Appellate Court Case Number:** 35050-9  
**Appellate Court Case Title:** State of Washington v. Michael Robert Daggett  
**Superior Court Case Number:** 16-8-00033-9

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